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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,745	12/24/2003	Shigekazu Yasuoka	SNY-048	9090

20374 7590 01/29/2009

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SUITE 1105
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EXAMINER	
ROE, JESSEE RANDALL	
ART UNIT	**PAPER NUMBER**
1793	

MAIL DATE	DELIVERY MODE
01/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Continuation Sheet

Applicant's arguments filed 21 January 2009 have been fully considered but they are not persuasive.

The Applicant primarily argues that the formula in claim 1 inherently limits the alloys to those having a crystalline structure of the AB_3 or $AB_{3.5}$ (Ce_2Ni_7) type in view of the limitation of y as being 2.8 – 3.9. The Applicant further argues that the broad range of Kaneko ('968) does not include the claimed formula because Formula (1) in the abstract of Kaneko ('968) is $(R_{1-x}L_x)(Ni_{1-y}M_y)_z$ where z is 4.5 to 5.0 and if the Office maintains the position that the broad range of Kaneko ('968) can include alloys of the claimed formula, it is requested to provide a detailed explanation of its position.

In response, the Examiner notes that in the alloys of Kaneko ('968) described as $(R_{1-x}L_x)(Ni_{1-y}M_y)_z$ where z is 4.5 to 5.0, y is 0 to 0.5. z modifies both the 1-y and y subscripts such that the range for the Ni subscript, (1-y) * z, is 2.5 to 5 and the range for the M subscript, y * z, is 0 to 2.5. Further evidence that the ranges of the compositions disclosed by Kaneko ('968) encompass that of the instant invention is found in column 7, lines 48-64 where Kaneko ('968) discloses a Ce_2Ni_7 type structure, which the Applicant argues that the structure of the instant invention has. Where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation. MPEP 2144.05 II.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessee Roe whose telephone number is (571) 272-5938. The examiner can normally be reached on Monday-Friday 7:30 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Roy V. King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John P. Sheehan/
Primary Examiner, Art Unit 1793

JR